

AKC920010018US1  
09/928, 347

In the Drawings:

None

ARC920010018081  
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This amendment is in response to the Examiner's Office Action dated 5/9/2005. The statements as provided in the Applicants' prior amendment dated 3/8/2005 still stand and are hereby incorporated by reference. Reconsideration of this application is respectfully requested in view of the foregoing amendment and the remarks that follow.

STATUS OF CLAIMS

Claims 1-23 are pending.

Claims 9 and 22 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter which is the invention.

Claims 1-23 stand rejected under 35 USC § 103(a) as being unpatentable over Noll et al. (USPA 2002/0054087) in view of Hosken (USP 6438579).

OVERVIEW OF CLAIMED INVENTION

The present invention is a method of dynamically optimizing bandwidth allocation in combination with dynamically optimized user channel placement. The system recursively receives multiple user preferences, thus allowing the amount of bandwidth per channel to be allocated as needed. One of the goals of the present invention is to provide a "best match" scenario between the users, the allocated channels, and their access to the channels. The present invention accomplishes this goal by dynamically allocating (or continuously changing) the bandwidth of the channels and dynamically allocating the content with each select channel based on the preferences of multiple users. In addition, the users are dynamically allocated to the appropriate channel that best matches their preferences. The prior art does not provide, describe,

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make obvious, or motivate a method or system of optimizing bandwidth through dynamic allocation.

REJECTIONS UNDER 35 USC § 112

Claims 9 and 22 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and claim the subject matter which is the invention.

Claims 9 and 22 have been amended. Antecedent basis has been corrected.

REJECTIONS UNDER 35 USC § 103(a)

Claims 1-23 stand rejected under 35 USC § 103(a) as being unpatentable over Noll et al. (USPA 2002/0054087) in view of Hosken (USP 6438579). To establish a prima facie case of obviousness under U.S.C. § 103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Additionally, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (In re Vneek, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Applicants contend, as will be seen from the arguments below, that the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103 (a).

With regard to the Examiner's Response in the Office Action dated 5/9/2005, the Examiner has failed to particularly point out the issues addressed in the Applicants' argument

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dated 3/8/2005. Although the Examiner recognizes that obviousness can only be established by combining or modifying teachings of the art, the Examiner has not provided evidence for such a suggestion or motivation for the combination of the Noll and Hosken references.

The present invention claims dynamic allocation of bandwidth to a plurality of channels. The Examiner states in section "a." on page 3 of the Response that Noll provides "dynamically generating personalized updates (paragraph 42)", and "virtual channels with high bandwidth content." The Examiner appears to have incorrectly equated the generation of updates and virtual channels with the "dynamic allocation of bandwidth to channels" as provided in the present invention. The Noll reference does not teach "the generation of virtual channels having different bandwidths for providing content requiring different bandwidth" as stated by the Examiner on page 4 (lines 4-7) of the Response. Furthermore, Noll does not teach "dynamically allocating bandwidth to a plurality of communication channels" as noted on page 4.

The Applicants respectfully request that the Examiner particularly point out the presently claimed limitation of "dynamically allocating bandwidth to a plurality of communication channels" within the Noll reference. Applicants respectfully remind the Examiner that it is the duty of the examiner to specifically point out each and every limitation of a claim being rejected as per §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.R.P., which explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

The present invention also claims "receiving user preferences of content information from multiple users" and "dynamically retaining within a selected channel a collection of specific instances of content based on a collation of said preferences." It appears that the Examiner has

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failed to point out the requirement of "multiple users" and the "collation of said preferences" of the users throughout the Response. The Examiner states in section "b." on page 4 of the Response "Noll explicitly discloses the collection of feed back from a client," and that it is obvious that Noll services many users. However, as also noted by the Examiner on page 4, "Noll does not provide dynamically retaining content based a collation of preferences" as provided in the present invention. The Examiner continues in section "c." to define the word collation ("the act or process of examining or comparing carefully to note points of disagreement"), and thus suggests on page 5 that "Noll et al. is collating preferences of a user." However, in the present invention the "user preferences of content information are from multiple users." The paragraphs (58, 63, 68, 80-82) provided by the Examiner describe content based on an individual user's feedback, not the preferences of multiple users as in the present invention. The Examiner reinforces that "multiple users are not provided in Noll on page 3 of the Rejection saying that "Noll does not explicitly state receiving user content preferences from 'multiple users.'"

The Examiner notes Hosken "for recommending content to users based on comparison between the user and other users preferences" on pages 3-4 of the Rejection. The Examiner further states that "one of ordinary skill" would have realized "to have content information comprising a collation of preferences from multiple users." However, as noted in the previous Amendment, Hosken does not describe or suggest the allocation of bandwidth to a plurality of channels, nor the use of channels. Hosken provides a method of filtering according to an individual user's preferences. Hosken fails to state or suggest "dynamically retaining within a selected channel a collection of specific instances of content based on a collation of preferences" by multiple users as in the present invention. On page 6 of the Response the Examiner also states that "content is presented to a user." Hosken presents suggestions or recommendations to an individual user based on other users' profiles, rather than allowing for a collection of content

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in a channel based on the multiple users' preferences to which the users have dynamically allocated access.

Therefore, the Applicants' contend that the Noll and Hosken references do not suggest or motivate the combination to achieve the limitations as provided in the present invention. The teaching to modify the references must come from the references themselves, and neither Noll or Hosken provides such.

Furthermore, even if the filtering system of Hosken could be combined with Noll (i.e., should the combination been deemed proper), the combined references fail to show or suggest at least the claim limitation of "dynamically allocating." The combination of Noll and Hosken would not produce "dynamically allocating bandwidth to a plurality of channels or "dynamically allocating user access to channels based on a best match with said preferences" as provided in claim 1 of the claimed invention.

On page 3 (lines 19-20) of the Rejection the Examiner states that Noll discloses "dynamically allocation user access to-channels based on a best match with said preferences." However, in section "d." on page 5 of the Examiner's Response the Examiner states "Noll does not provide for dynamically allocating user access based on user preference." Furthermore, in section "5." on page 6, the Examiner states "Hosken does not describe dynamically allocating a user access based on user's preferences." Therefore, the Examiner has been inconsistent in what they believe that the Noll and Hosken references actually provide.

Please note that in the presently claimed invention, user access is based on users' preferences (i.e., multiple users), not an individual user's.

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It appears that the Examiner continues to present arguments with respect to a user throughout the Response (see sections "4, 5, and 6"). The Examiner appears to have correlated content and preferences of a single or individual user with the "multiple users" and "collation of said preferences" in the presently claimed invention. Applicants respectfully remind the Examiner that it is the duty of the examiner to specifically point out each and every limitation of a claim being rejected as per §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P., which explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

In addition to the specifically cited arguments above, Applicants' previous position on the rejections as provided in the Amendment dated 3/08/2005 is hereby incorporated by reference.

#### SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicants' presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

If the examiner still feels that the "user preferences of content information from multiple users," "dynamically retaining content," and "dynamically allocating" bandwidth and "user access" limitations of claims 1-9 and 11-23 are disclosed in the Noll et al. and/or Hosken references, applicants respectfully remind the examiner that it is the duty of the examiner to specifically point out each and every limitation of a claim being rejected as per §1.104(c)(2) of

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Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P., which explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified".

As this amendment has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 12-0010.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicants' representative at the below number.

Respectfully submitted,



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